



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Sentrix Pharmacy and Discount, L.L.C.

**Respondent Name**

State Office of Risk Management

**MFDR Tracking Number**

M4-17-2919-01

**Carrier's Austin Representative**

Box Number 45

**MFDR Date Received**

June 2, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "28 TAC §134.530 clearly states that preauthorization is only required for any compound that contains a drug identified with a status of 'N' in the current edition of the ODG Workers' Compensation Drug Formulary. In the case of the claim(s) at issue, all of the ingredients are either identified with a 'Y' in the June 2016 or are not listed at all. The ingredients in the compounded medications subject to the claims at issue are included on the closed formulary."

**Amount in Dispute:** \$3,494.84

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Since Topical Tetracain/Lidocaine is 'N' status, preauthorization was required before this drug could be prescribed ... Since custom compounds are created without specific clinical testing they could be considered investigational as there are no supporting studies to show the efficacy of this specific topical compound for the compensable injury, the Office found there were no certified preauthorization's obtained for the compound medications."

**Response Submitted by:** State Office of Risk Management

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 9, 2016	Pharmacy Services – Compound	\$3,494.84	\$3,494.84

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.

3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §134.540 sets out the closed formulary requirements for claims subject to certified networks.
5. Texas Insurance Code, Chapter 4201 provides requirements related to utilization review.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 15 – Payment adjusted because the submitted authorization number is missing, invalid, or does not apply to the billed services or provider.
  - 293 – This procedure requires prior authorization and none was identified.

### Issues

1. Is the insurance carrier's reason for denial of payment supported?
2. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) entitled to reimbursement of the disputed services?

### Findings

1. Sentrix is seeking reimbursement of \$3,494.84 for a compound dispensed on June 9, 2016. State Office of Risk Management (SORM) denied the disputed service with claim adjustment reason codes 15 – "PAYMENT ADJUSTED BECAUSE THE SUBMITTED AUTHORIZATION NUMBER IS MISSING, INVALID, OR DOES NOT APPLY TO THE BILLED SERVICES OR PROVIDER," and 293 – "THIS PROCEDURE REQUIRES PRIOR AUTHORIZATION AND NONE WAS IDENTIFIED." 28 Texas Administrative Code §134.540(b) states that preauthorization is **only** required for:
  - (1) drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;
  - (2) any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates; and
  - (3) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

Provision §134.540(b)(1) preauthorization requirement is not discussed in this dispute because it was not asserted by either party in this dispute and is not applicable to the compound in question.

SORM argued that "Since Topical Tetracain/Lidocaine is 'N' status, preauthorization was required before this drug could be prescribed." The division finds that while Lidocaine has a status of "N" in the applicable edition of *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary* (ODG/Appendix A), this combination of drugs was not included in the compound in question. Tetracaine, which is a separate drug, does not have a status of "N" in the relevant edition of the ODG/Appendix A. The division concludes that Sentrix was not required to seek preauthorization pursuant to §134.540(b)(2) because none of the compounded ingredients have a status of "N" in the applicable edition of the ODG/Appendix A.

SORM also argued that "Since custom compounds are created without specific clinical testing they could be considered investigational."

The determination of a service's investigational or experimental is determined on a case by case basis as a utilization review pursuant to Texas Insurance Code §4201.002. Further, Texas Insurance Code §4201.002(13) states that utilization review, in relevant part, "includes a system for prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health care services."

The division found **no evidence** that SORM engaged in a prospective or retrospective utilization review (UR) as required by Texas Insurance Code §4201.002 in order to establish that the following compound is investigational or experimental in nature:

Compound Cream in Dispute	
Ingredient	Amount
Salt Stable LS Base	213.0 gm
Flurbiprofen 15%	45.0 gm
Baclofen 2%	6.0 gm
Cyclobenzaprine 2%	6.0 gm
Tetracaine 5%	15.0 gm
Tramadol 5%	15.0 gm

Because SORM failed to perform UR on the above listed compound, the requirement for preauthorization under §134.540(b)(2) **is not triggered** in this case. SORM's preauthorization denial is therefore not supported.

Absent any evidence that SORM presented other defenses to Sentrix before medical fee dispute resolution that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division finds that the compounds in question are eligible for reimbursement.

2. 28 Texas Administrative Code §134.503 applies to the services in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
  - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
    - (A) Generic drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount;
    - (B) Brand name drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  dispensing fee per prescription = reimbursement amount;
    - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
  - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
    - (A) health care provider; or
    - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compounds in dispute were billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2).

Reimbursement is calculated as follows:

Ingredient	NDC & Type	Price/Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Salt Stable LS Base	00395602157 Brand Name	\$3.36	213.0 gm	\$780.09	\$715.76	\$715.76
Flurbiprofen 15%	38779036205 Generic	\$36.58	45.0 gm	\$2,057.63	\$1,646.12	\$1,646.12
Baclofen 2%	38779038808 Generic	\$35.63	6.0 gm	\$267.23	\$213.89	\$213.89
Cyclobenzaprine 2%	38779039505 Generic	\$46.332	6.0 gm	\$347.49	\$277.85	\$277.85
Tetracaine 5%	38779056605 Generic	\$6.688	15.0 gm	\$125.40	\$96.81	\$96.81
Tramadol 5%	38779237409 Generic	\$36.30	15.0 gm	\$680.63	\$544.51	\$544.51

Compounding Fee	NA	NA	NA	\$15.00 fee	\$0	\$0
					Total	\$3,494.94

The total allowable reimbursement for the compound in dispute is \$3,494.94. Sentrrix is seeking \$3,494.84. This amount is recommended.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$3,494.84.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$3,494.84, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

### **Authorized Signature**

_____	Laurie Garnes	December 8, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**